

SECOND REGULAR SESSION

# SENATE BILL NO. 1163

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time February 20, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5205S.011

## AN ACT

To repeal sections 168.133 and 302.272, RSMo, and to enact in lieu thereof two new sections relating to criminal background checks for school bus personnel, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 168.133 and 302.272, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 168.133 and 302.272, to read as follows:

168.133. 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses. [The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate buses pending the result of the criminal background check. For bus drivers, the background check shall be conducted on drivers employed by the school district or employed by a pupil transportation company under contract with the school district.] **No later than January 1, 2009, each school district shall require from the authorized representative of any company or individual contracting with or employed by the school district a certified statement, under penalties of perjury for making a false statement to a public official, to the superintendent of the school district certifying that all persons operating a vehicle requiring a school bus endorsement have submitted themselves to a criminal**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 **history repository and criminal history files search as prescribed by**  
19 **the highway patrol and the Federal Bureau of Investigation,**  
20 **respectively, as required by section 302.272, RSMo, and the results of**  
21 **those searches would not have disqualified them from receiving a**  
22 **school bus endorsement in the state of Missouri.**

23         2. In order to facilitate the criminal history background check on any  
24 person employed after January 1, 2005, the applicant shall submit two sets of  
25 fingerprints collected pursuant to standards determined by the [Missouri]  
26 highway patrol. One set of fingerprints shall be used by the highway patrol to  
27 search the criminal history repository and the family care safety registry  
28 pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be  
29 forwarded to the Federal Bureau of Investigation for searching the federal  
30 criminal history files.

31         3. The applicant shall pay the fee for the state criminal history record  
32 information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936,  
33 RSMo, and pay the appropriate fee determined by the Federal Bureau of  
34 Investigation for the federal criminal history record when he or she applies for  
35 a position authorized to have contact with pupils pursuant to this section. The  
36 department shall distribute the fees collected for the state and federal criminal  
37 histories to the [Missouri] highway patrol.

38         4. The school district may adopt a policy to provide for reimbursement of  
39 expenses incurred by an employee for state and federal criminal history  
40 information pursuant to section 43.530, RSMo.

41         5. If, as a result of the criminal history background check mandated by  
42 this section, it is determined that the holder of a certificate issued pursuant to  
43 section 168.021 has pled guilty or nolo contendere to, or been found guilty of a  
44 crime or offense listed in section 168.071, or a similar crime or offense committed  
45 in another state, the United States, or any other country, regardless of imposition  
46 of sentence, such information shall be reported to the department of elementary  
47 and secondary education.

48         6. Any school official making a report to the department of elementary  
49 and secondary education in conformity with this section shall not be subject to  
50 civil liability for such action.

51         7. For any teacher who is employed by a school district on a substitute or  
52 part-time basis within one year of such teacher's retirement from a Missouri  
53 school, the state of Missouri shall not require such teacher to be subject to any

54 additional background checks prior to having contact with pupils. Nothing in this  
55 subsection shall be construed as prohibiting or otherwise restricting a school  
56 district from requiring additional background checks for such teachers employed  
57 by the school district.

58 8. Nothing in this section shall be construed to alter the standards for  
59 suspension, denial, or revocation of a certificate issued pursuant to this chapter.

60 9. The state board of education may promulgate rules for criminal history  
61 background checks made pursuant to this section. Any rule or portion of a rule,  
62 as that term is defined in section 536.010, RSMo, that is created under the  
63 authority delegated in this section shall become effective only if it complies with  
64 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
65 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
66 and if any of the powers vested with the general assembly pursuant to chapter  
67 536, RSMo, to review, to delay the effective date, or to disapprove and annul a  
68 rule are subsequently held unconstitutional, then the grant of rulemaking  
69 authority and any rule proposed or adopted after January 1, 2005, shall be  
70 invalid and void.

302.272. 1. No person shall operate any school bus owned by or under  
2 contract with a public school or the state board of education unless such driver  
3 has qualified for a school bus endorsement under this section and complied with  
4 the pertinent rules and regulations of the department of revenue and any final  
5 rule issued by the secretary of the United States Department of Transportation  
6 or has a valid school bus endorsement on a valid commercial driver's license  
7 issued by another state. A school bus endorsement shall be issued to any  
8 applicant who meets the following qualifications:

- 9 (1) The applicant has a valid state license issued under this chapter;
- 10 (2) The applicant is at least twenty-one years of age; and
- 11 (3) The applicant has successfully passed an examination for the  
12 operation of a school bus as prescribed by the director of revenue. The  
13 examination shall include any examinations prescribed by the secretary of the  
14 United States Department of Transportation, and a driving test in the type of  
15 vehicle to be operated. The test shall be completed in the appropriate class of  
16 vehicle to be driven. For purposes of this section classes of school buses shall  
17 comply with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub.  
18 Law 99-570). For drivers who are at least seventy years of age, such examination  
19 shall be completed annually.

20           2. The highway patrol shall provide a record of clearance or  
21 denial for any applicant for a school bus endorsement for the  
22 convictions specified in subdivisions (1), (2), and (3) of this  
23 subsection. The highway patrol, in providing the record of clearance  
24 or denial for any such applicant, is authorized to obtain from the  
25 Federal Bureau of Investigation any information which might aid the  
26 highway patrol in providing such record of clearance or denial. The  
27 highway patrol shall provide the record of clearance or denial within  
28 sixty days of the date requested, relying on information available at  
29 that time, except that the highway patrol shall provide any information  
30 subsequently discovered to the department of revenue:

31           (1) Who has pled guilty to or been found guilty of any felony or  
32 misdemeanor for violation of drug regulations as defined in chapter  
33 195, RSMo; of any felony for an offense against the person as defined by  
34 chapter 565, RSMo, or any other offense against the person involving  
35 child abuse or the endangerment of a child as prescribed by law; of any  
36 misdemeanor or felony for a sexual offense as defined by chapter 566,  
37 RSMo; of any misdemeanor or felony for prostitution as defined by  
38 chapter 567, RSMo; of any misdemeanor or felony for an offense against  
39 the family as defined in chapter 568, RSMo; of any felony or  
40 misdemeanor for a weapons offense as defined by chapter 571, RSMo;  
41 of any misdemeanor or felony for pornography or related offense as  
42 defined by chapter 573, RSMo; or of any similar crime in any federal,  
43 state, municipal, or other court of similar jurisdiction of which the  
44 director has knowledge;

45           (2) Who has pled guilty to or been found guilty of any felony  
46 involving robbery, arson, burglary, or a related offense as defined by  
47 chapter 569, RSMo; or any similar crime in any federal, state,  
48 municipal, or other court of similar jurisdiction within the preceding  
49 ten years of which the director has knowledge;

50           (3) Who is listed on the Missouri sex offender registry.

51           3. The applicant shall submit two sets of fingerprints. One set of  
52 fingerprints shall be used by the highway patrol in order to search the  
53 criminal history repository and the second set shall be forwarded to the  
54 Federal Bureau of Investigation for searching the federal criminal  
55 history files. The applicant shall pay the fee for the state criminal  
56 history information pursuant to section 43.530, RSMo, and pay the

57 **appropriate fee determined by the Federal Bureau of Investigation for**  
58 **the federal criminal history record when he or she applies for the**  
59 **school bus endorsement pursuant to this section.**

60 **4. If, as a result of the criminal history background check or a**  
61 **check of the sex offender registry required by this section, it is**  
62 **determined that an applicant has pled guilty or nolo contendere to, or**  
63 **been found guilty of an offense listed in subdivisions (1), (2), or (3) of**  
64 **subsection 2 of this section, or a similar offense if committed in any**  
65 **other state, the United States, or any other country, regardless of**  
66 **imposition of sentence, the director of revenue shall not issue or renew**  
67 **a school bus endorsement to such applicant.**

68 **5. The director of revenue, to the best of the director's knowledge, shall**  
69 **not issue or renew a school bus endorsement to any applicant [whose driving**  
70 **record shows that such applicant's privilege to operate a motor vehicle has been**  
71 **suspended, revoked or disqualified or whose driving record shows a history of**  
72 **moving vehicle violations]:**

73 **(1) Whose driving record shows that such applicant's privilege**  
74 **to operate a motor vehicle has been suspended, revoked, or disqualified**  
75 **or whose driving record shows a history of moving vehicle violations;**

76 **(2) Who has been denied clearance by the highway patrol as**  
77 **specified in subdivisions (1), (2), or (3) of subsection 2 of this section.**

78 **[3.] 6. The director may adopt any rules and regulations necessary to**  
79 **carry out the provisions of this section. Any rule or portion of a rule, as that**  
80 **term is defined in section 536.010, RSMo, that is created under the authority**  
81 **delegated in this section shall become effective only if it complies with and is**  
82 **subject to all of the provisions of chapter 536, RSMo, and, if applicable, section**  
83 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any**  
84 **of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
85 **to review, to delay the effective date, or to disapprove and annul a rule are**  
86 **subsequently held unconstitutional, then the grant of rulemaking authority and**  
87 **any rule proposed or adopted after August 28, 2004, shall be invalid and void.**

88 **[4.] 7. The director shall immediately revoke the school bus**  
89 **endorsement, if at any time it is discovered that the person holding the**  
90 **endorsement has committed a violation that would be a disqualification**  
91 **for an applicant under this section.**

92 **8. Notwithstanding the requirements of this section, an applicant who**

93 resides in another state and possesses a valid driver's license from his or her  
94 state of residence with a valid school bus endorsement for the type of vehicle  
95 being operated shall not be required to obtain a Missouri driver's license with a  
96 school bus endorsement.

97 **9. The requirements of subsections 2 and 3 of this section shall**  
98 **not apply provided that the applicant is at least seventy years of age**  
99 **and that the applicant is able to provide verification to the director of**  
100 **the department of revenue that in the last six years the applicant has**  
101 **submitted to the requirements of this section and the applicant is**  
102 **applying for a renewal of the school bus endorsement.**

103 **10. The director may issue a ninety-day temporary renewal**  
104 **extension to applicants currently holding a valid school bus**  
105 **endorsement pending notice of clearance or denial as specified in**  
106 **subsection 2 of this section.**

107 **11. The school district may adopt a policy to provide for**  
108 **reimbursement of expenses incurred by an employee for state and**  
109 **federal criminal history information or any other fees pursuant to this**  
110 **section.**

Bill

✓

Copy